



August 4, 2014

To: U.S. Department of Justice
450 5th Street N.W, Suite 4000
Washington, DC 20001
ASCAP-BMI-decree-review@usdoj.gov

I am a music publisher, having championed the rights of songwriters for over 35 years. I began my career at ASCAP and from there became Vice President of Music Publishing at Saban Entertainment. I've held the position of Senior Vice President/General Manager of one of the largest film studio music publishing concerns, News Corporation's Fox Music Publishing, for sixteen years representing film, television and soundtrack assets for the studio. I am a Past President of the Association of Independent Music Publishers and serve on the Board of Directors of the Songwriters Hall of Fame.

Currently I am the Founder and President of Music Asset Management, Inc., an independent music publishing company, which I created in 2006. I am proud of the fact that for the past eight years we have built a solid company by creating jobs and serving the songwriting and media sector by specializing in music publishing administration and music licensing consultation. We represent hit songwriter/artists who top the charts, consult for both major and independent artists, perform royalty collection services for television production companies, and advise film composers, songwriters, estates (Bobby Troup's classic "Route 66") and media companies through over 2 dozen consulting arrangements.

As the sands shift for copyright and licensing reform, publishers who manage these rights from single songs to massive catalogs throughout the world are marching toward a major earthquake in the ways music transactions occur, including how performances are tracked and how the many rights are protected and paid.

Songwriting is at the heart of the current licensing debates. The immediate need for revisions to the ASCAP and BMI Consent decrees, which hinder those organizations and a music publishers' ability to negotiate competitive rates in the marketplace, is essential. BMI and ASCAP must be able to arrive at fair market values, through collective licensing efforts, otherwise careers such as mine and those who choose to do so in the future may not even continue with a declining value chain on hit songs.

Songs and catalogs are, and have been, the backbone of the industry as music producers seek the ultimate gems for their label projects and as tastemakers they exploit singles with brands and broadcasters. Endless streams of music, distributed in a myriad of ways - through online sites, thousands of TV channels in varying distribution platforms and multimedia configurations - now require complex licensing strategies due to the convergence of several music rights.

Most people have no idea what a music publisher does. My late parents were very proud of my accomplishments, yet didn't know what music publishing meant and I am certain most legislators do not either. What is clear is the fact that two of the four historical income streams for music publishers have deteriorated dramatically over the past 2 decades. Print rights and mechanical rights have declined due to the sheer fact that the digital age has made sharing and copying occur in an instant of point & click. The great news is that it is now possible to become published instantaneously by having music commercially exploited online through streaming, download and file sharing services. The bad news is that it IS so simple to become a music publisher and commercial songwriter in this digital age, and that the vast amount of data to be processed and the monetary compensation for each performance, download and audio visual use requires an expertise which very few companies possess. Licensees need better tools to seek the data required for such licenses and those companies such as Pandora need to value songs- which have built their businesses on streaming songs – with significantly higher values so everyone succeeds.

While major publishers are considering, and should have the right to, withdraw selected rights from the leading performance rights societies, withdrawal of entire catalogs for all sources of performance rights may undermine this major source of income – which to date has been the most important income stream for songwriters and music publishers. The modification of the various Consent Decrees to enable a free collective licensing market is essential in order for publishers and songwriters to receive their fair share. I am concerned that the withdrawal of ALL rights from BMI and ASCAP by the largest publishers may be to the detriment of smaller, independent publishers. The performance rights organizations have historically played a huge role in ensuring reciprocal rights are maximized in the global marketplace for all U.S. songwriters and publishers.


The bundling of rights (including synchronization rights) presently under consideration by the leading rights organizations would enable publishers, or licensing agents on their behalf, to efficiently provide one-stop, turn-key transactions for select music licensees. It will be most important for there to be a clear and transparent road map for licensees and that licensors of any music asset MUST have a choice in whether a third party has the right to grant more than that one right an organization specializes in. On that note, I would not like to see 'music licensing by the pound' – meaning if a director of a film, a producer of a recording, or curators of playlists have to arrive at creative decisions because bulk packaging of music becomes the only affordable means to stay within a music budget and force certain music choices.

Modifying the respective Consent Decrees by setting fair market values through Arbitration Methods, rather than the current costly Rate Court Proceedings, would be a dramatic improvement. In recent years, the DMX decision and commercial Radio settlements at various societies have reduced rates substantially and at great expense to affiliates. It is my hope that without the constraints of lengthy rate court proceedings we can move toward faster and more cost effective rate decisions.

Song values are under attack and having a choice in the way one chooses to do business is at issue here. Songwriters will become an endangered species if desperately needed changes don't occur this year. The clock is ticking on lawsuits and Justice Department decisions while aggressive, transformative attempts may alter the way songwriters and publishers are paid. These modifications, from singular performance rights governed by blanket licenses to multiple layers of rights by coupling or such bundling of rights, will help to provide a fluid marketplace and enable future songwriters, publishers, new rights organizations AND the established Societies to continue to flourish.

In conclusion, the current system is not working in the digital environment. The Consent Decrees must be modified and companies should have a right to choose how they license music going forward. I do not wish to see our right to negotiate freely and be profitable as independent publishers disintegrate due to major, multinational publishers withdrawing all rights as their only choice under the current conditions of the antiquated Consent Decrees.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Jo Mennella". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mary Jo Mennella
Founder/ President